IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 19932 of 2004

Between:

The Inspector General of Police, Police Transport Organisation, Petlaburj, Hyderabad.

..... PETITIONER

AND

V.Venkateshwarulu, Selected as police constable Driver, police Transport Organisation, Petlaburz, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or direction more particularly one in the nature of "writ of certiorari" calling for the records connected with order dt.22-03-2004 in O.A.No.5914/2000 on the file of the Andhra Pradesh Administrative Tribunal, Hyderabad and quash the same as illegal and erroneous.

Counsel for the Petitioner : GP FOR SERVICES I

Counsel for the Respondent : MR.GOPALA RAO GANDRAKOTA

The Court made the following :

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ORDER: (per P.S.Narayana.,J)

The Inspector General of Police, Police Transport Organisation, Petlaburz, Hyderabad, filed the present Writ Petition praying for issuance of a writ of certiorari calling for records connected with the order dated 22-3-2004 in O.A.No.5914/2000 on the file of A.P. Administrative Tribunal, Hyderabad, hereinafter in short referred to as "Tribunal", and to quash the same as illegal and erroneous and for pass such other suitable orders.

This Court issued Rule Nisi and granted interim suspension in W.P.M.P.No.26089/2004 on 16-11-2004. V.Venkateshwarlu, the respondent in the Writ Petition and the applicant in the O.A. aforesaid filed W.V.M.P.No.3536/2004 to vacate the interim order and when the matter came up for hearing, both the Counsel addressed elaborate arguments and with the consent of the Counsel on record, the Writ Petition itself is being disposed of finally.

The learned Government Pleader for Services-I had taken this Court

through the impugned order and the contents of the affidavit filed in support of the Writ Petition and had pointed out that this is not a case of suppression of fact but this is a case where selection was cancelled by the order which had been impugned in the O.A. on the ground of adverse remarks and the character and antecedents of the respondent herein/applicant in the O.A. being not satisfactory. The learned Counsel also pointed out that the Tribunal had taken into consideration the subsequent events also and arrived at a conclusion that there was no involvement of the respondent herein/applicant in the O.A. in any criminal case on the date of selection but subsequent thereto he was involved in a criminal case and the said case also ended in acquittal and the respondent herein/applicant in the O.A. is now free from any stigma and hence it is a fit matter where suitable directions are to be issued and this approach of the Tribunal definitely cannot be sustained in the light of the ratio laid down by the Apex Court in **DELHI ADMINISTRATION Vs. SUSHIL KUMAR** . The Counsel would maintain that at any rate inasmuch as even during training if the trainee does not show satisfactory progress during the period of training, the trainee may be discharged from training without assigning any reason or without issuing any prior notice and hence there is no enforceable legal right which had been vested in the respondent herein/applicant in the O.A. and hence the directions issued by the Tribunal cannot be sustained.

Per contra, Sri Gopal Rao Gandrakota had pointed out that writ petitioner had not filed any counter affidavit at all before the Tribunal. The learned Counsel also had pointed out to several factual details and also had drawn the attention of this Court to the letter addressed by the defacto-complainant and also the portions of the Judgment regarding acquittal in the criminal case. The learned Counsel also had pointed out to Rule 12(1)(a) of the A.P. State and Subordinate Service Rules and had maintained that the antecedents were verified by the concerned authorities and after satisfying about the antecedents of the respondent herein/applicant in the O.A. he was directed to report for training and even otherwise the subsequent events amply establish that for no fault of the respondent herein/applicant in the O.A. he was disqualified and consequent thereupon an order of cancellation had been issued without proper application of mind to the relevant facts.

Heard the Counsel.

It may be appropriate to have a look at the operative portion of the impugned order made in O.A.No.5914/2000 with M.A.Nos.2790/2000 and 253/2004, which reads as hereunder :

> "Regarding the main point for consideration, whether the applicant is to be sent for training, as could be seen from the facts and allegations made and orders issued, there was no involvement of the applicant in any criminal case. But, only subsequently, he was involved in a criminal case. Latter on he has submitted a letter to the I.G. of Police. The applicant has

nothing to do with the offence since criminal case filed against him was ultimately ended in acquittal. The applicant is now free from any stigma.

So in this view of the matter, now, by virtue of subsequent developments, there will be no difficulty in considering the case of the applicant for being sent for training as he has been selected already and issued orders for training. Therefore, I direct the respondent that in the ensuing training, applicant's name be sponsored for undergoing training. Accordingly, the O.A. is allowed. No order as to costs."

As can be seen from the impugned order, the subsequent events inclusive of the acquittal recorded by the competent Criminal Court also was brought to the notice of the Tribunal.

The Chairman, State Level Recruitment Board, Hyderabad had issued notification calling for applications from the eligible candidates to appoint as Stipendiary Trainee Cadet P.C. Driver in Police Transport Organisation, Hyderabad in the year 1999. After qualifying physical efficiency test and also driving test, the candidates who secured higher marks shall be eligible for selection as Stipendiary Trainee Cadet of P.C. Driver. The selected candidates must complete three months basic training at one of the Police Training Colleges and practical training of six months in Police Transport Organisation, Hyderabad. The Chairman, State Level Police Recruitment Board, Hyderabad is the authority to finalise the selection process. After due process the Chairman, State Level Police Recruitment Board, Hyderabad had furnished a selection list of Stipendiary Trainee

Cadet P.C. Driver in Memo No.74/R & T/Rectt.2/2000, dated 11-8-2000 (P3) to the Inspector General of Police, Police Transport Organisation, Hyderabad. After receipt of selection list the Inspector General of Police, Police Transport Organisation, had issued selection orders directing the candidates to report before Inspector General of Police, Police Transport Organisation, on 5-9-2000 to collect the kit articles and undergo three months basic training at Police Training college, Amberpet, Hyderabad. The respondent herein who appeared for selection bearing Reg.No.215219 through Superintendent of Police, Adilabad had been issued selection order No.197/2000 dated 25-8-2000 as Stipendiary Trainee Cadet P.C. Driver and was asked to report before the Inspector General of Police, Police Transport Organisation on 2-9-2000 along with surety bond and original certificates to undergo basic training of three months at Police Training College, Amberpet, Hyderabad and the Superintendent of Police, Adilabad had been requested to intimate the candidate to report him in Police Transport Organisation. The Superintendent of Police, Adilabad in turn had requested the Superintendent of Police, Kurnool to intimate the candidate since the candidate was residing in Mahaboobnagar District. The Superintendent of Police, Mahaboobnagar gave a message to Circle Inspector, Srisailam to inform the candidate and in turn the Circle Inspector, Srisailam gave a message through automex message

dated 3-9-2000 to Superintendent of Police, Kurnool and a copy marked to Inspector General of Police, Police Transport Organisation, Hyderabad, informing that the respondent herein who was selected as Stipendiary Trainee Cadet P.C. Driver was involved in a criminal case No.24/2000 of Egalapenta Police Station, Mahaboobnagar District and was arrested on 28-8-2000 and presently he was in Chanchalguda jail. It is also averred in the affidavit filed in support of the Writ Petition that the Chairman, State Level Police Recruitment Board, Hyderabad was informed of the fact and requested to send another cadet in the place of the respondent herein who was involved in the criminal case and the Chairman State Level Police Recruitment Board had informed to follow Rule 12(1)(a) of A.P. State and Subordinate Service Rules and take a decision in respect of the candidates involved in criminal cases and further instruction was also given through memo No.890/R & T/Admn.2/97 dated 20-3-1998 that the antecedents verification was to be done to the selected candidates only and this should be taken up immediately as soon as selection was over. If the antecedents of any candidate are found to be unsatisfactory as to render him in opinion of the appointing authority unsuitable for police services, the selection order should not be issued after recording in brief why the selection authority thinks a person unsuitable for police service. Therefore, the selection orders already issued through D.O.197/2000 dated 25-8-2000 had been

cancelled through D.O.No.223/2000 dated 21-9-2000 as the respondent herein came to adverse remarks and his character and antecedents were not satisfactory. It was further pleaded that the telegraphic orders of the Tribunal were received through the Counsel of the respondent on 28-9-2000 stating that pending further consideration of O.A. the writ petitioner was directed to take appropriate action on letter dated 24-9-2000 of Mr.M.Kishore Kumar Reddy (complainant in Cr.No.24/2000) seeking permission to withdraw the same and depending upon that further action to be taken with regard to allowing the respondent herein for training. On receipt of the order of the Tribunal, a message was sent to Superintendent of Police, Mahaboobnagar and Circle Inspector, Srisailam to inform whether Mr.Kishore Kumar Reddy/complainant had withdrawn the case against the respondent herein, and if so the orders of the Court may be sent for taking further action. It is stated that the Superintendent of Police, Mahaboobnagar had informed that Mr.M.Kishore Kumar Reddy, complainant in Cr.No.24/2000, had not withdrawn the case and charge sheet was filed in the Court of law and it was posted for trial. The Sub-Divisional Police Officer, Nagarkurnool had also sent a detailed report through letter No.365/SDON/2000 dated 25-10-2000 that the respondent and another person were involved in a criminal case in Cr.No.24/2000 under Sections 364(a), 323 and 506 IPC and they were arrested and

produced before the Judicial First Class Magistrate Court, Achampeta along with charge sheet on 24-8-2000 and there was no possibility to withdraw the case against the respondent herein. It is also stated that Mr.M.Kishore Kumar Reddy had not submitted any application to the Inspector General of Police, Police Transport Organisation directly but it was received through the Counsel for the respondent. It is not known whether the petition said to have been given by Mr.M.Kishore Kumar Reddy is genuine or not but as per the report of the Sub-Divisional Police Officer, Nagarkurnool, the withdrawing of the application seems to be false. The Inspector General of Police, Police Transport Organisation is not competent to decide the Court case on the withdrawal of the case and hence the orders issued for appointing the respondent herein as Stipendiary Trainee Cadet P.C. Driver had been cancelled.

In the counter affidavit filed in W.V.M.P. referred to supra, several factual details had been narrated. The stand taken by the respondent herein is that he was working as Driver in Patel Engineering Company in Srisailam Project, a private job and on 10-7-2000 while he was waiting to go to his house one Sri Gundaiah, a contractor of the same Company asked him to come along with him saying that he has some work with him and he had followed the said Gundaiah and the said Gundaiah had taken him to Sri K.Krishna

Kishore Reddy, an Assistant Engineer working in the same Company along with him on his motor cycle to Sundipenta and there was some quarrel between them about delivery of some material and simply he was present at the said place unconnected with the happenings and he had not taken part either in bringing the said Krishna Kishore Reddy to Sundipenta or in the said quarrel and he was only a spectator, but however his presence was misunderstood and Krishna Kishore Reddy made a complaint to Egalapenta Police Station against Gundaiah and the respondent herein also and a case was registered in Cr.No.24/2000 and he was also arrested and released on bail. Specific stand was taken that the said Krishna Kishore Reddy himself had given a letter on 24-9-2000 addressed to the Inspector General of Police, Police Transport Organisation, Hyderabad stating that he was not involved in the case. The said letter reads as hereunder :

> "Sir,
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> I have given a complaint against one Sri Gundaiah Contractor and Sri V.Venkateswarlu on 10-7-2000 to the Police Station Egalapenta (Amrabad) that both of them have attacked me and assaulted me. A case was registered in the said Police Station against them in Cr.No.24/2000. Actually the said Sri V.Venkateswarlu is not involved in the attack against me and assaulting. He was just present there.
>
> Any way under the advise of the elders we have compromised in the matter and I am withdrawing complaint against Sri V.Venkateswarlu.
>
> This is for your kind information."

Inasmuch as the respondent herein was not allowed to undergo training, O.A.No.5914/2000 was filed questioning the order of cancellation and apart from the letter referred to supra, the respondent herein also had taken a specific stand that he was acquitted of all the charges in the said criminal case and the same was brought to the notice of the Tribunal too.

It may be appropriate to have a look at the relevant portion of the Judgment in S.C.No.44/2001 on the file of Assistant Sessions Judge, Nagarkurnool dated 29-1-2003, which reads as hereunder :

> "Now the point for determination is whether the prosecution has been succeeded in bring home the guilt of the accused beyond all reasonable doubt ?
>
> In this case the prosecution examined PW-1 and PW-2. PW-1 Assadi Vasantha Rao is the eye witness to the incident. But PW-1 in his evidence stated that he does not know the facts of the case. Hence the prosecution declared him as hostile and nothing is elicited in his cross-examination. PW-2 M.Balchandraiah is the Head constable/Investigating Officer in this case. He deposed that on 11-7-2000 at 11-30 hrs. LW-1 Kishorekumar Reddy lodged the complaint upon which he registered a case in Cr.No.24/2000 U/s 364-A, 323 and 506 IPC and issued F.I.R. Ex.P-1 is the complaint and Ex.P-2 is the FIR. He further deposed that he recorded the statements of witnesses and handed over the case file to the Sub-Inspector of Police for further investigation. He deposed that he referred the injured to the Government Hospital for treatment and obtained wound certificate from the doctor. The prosecution given up the remaining witnesses.
>
> Thus there is no material on record to bring the accused within the fold of alleged charges. The evidence of PW-2 is not at all helpful to the prosecution to prove the case against the accused. Hence the prosecution has miserably failed to prove the offences against the accused.
>
> In the result, the accused are found not guilty for the

offences U/s.364, 323 and 506 IPC and acquitted them U/s.235(1) Cr.P.C. The bail bonds of the accused shall stand cancelled."

Specific stand was taken that in the light of the letter given by the defacto-complainant referred to supra and also the acquittal recorded by the competent Criminal Court, on the ground of verification of antecedents in the light of some unfortunate subsequent event, the impugned order in the O.A., the order of cancellation, could not have been issued and the same is unsustainable and hence the Tribunal had recorded reasons and ultimately arrived at the conclusion that the suitable directions are to be issued and hence the Writ Petition is liable to be dismissed.

Rule 12(1)(a) of the A.P. State Subordinate Service Rules specifies :

"No person shall be eligible for appointment to any service by direct recruitment unless he satisfies the selection authority as well as the appointing authority, that :

i. he is of sound health, active habits and free from any bodily defect or infirmity rendering him unfit for such service;

ii. his character and antecedents are such as to qualify him for such service;

iii. he possesses the academic and other qualifications prescribed for the post; and

iv. he is a citizen of India:

Provided that no candidate other than a citizen of India may be appointed except with the previous sanction of the State Government and except in accordance with such conditions and restrictions as they may be laid down. Such sanction shall not be accorded unless the State Government are

satisfied that sufficient number of citizens of India, who are qualified and suitable are not available;

(v) No person shall be eligible for direct recruitment if he is less

than 18 years of age and unless otherwise specified in the special or adhoc rules and if he is more than 33 years of age as on the 1st day of July of the year in which the notification for selection to the relevant post, category or class or a service is made :

Provided that nothing in this sub-rule shall apply for direct recruitment to all the categories and posts in the Andhra Pradesh Police Subordinate Service and in the Andhra Pradesh Special Armed Police Service."

In the decision referred (1) supra, it was no doubt held as hereunder :

"Verification of the character and antecedents is one of the important criteria to test whether the selected candidate is suitable to a post under the State. Though the respondent was found physically fit, passed the written test and interview and was provisionally selected, on account of his antecedent record, the appointing authority found it not desirable to appoint a person of such record as a Constable in the disciplined force. The view taken by the appointing authority in the background of the case cannot be said to be unwarranted. The Tribunal, therefore, was wholly unjustified in giving the direction for reconsideration of his case. Though he was discharged or acquitted of the criminal offences, the same has nothing to do with the question. What would be relevant is the conduct or character of the candidate to be appointed to a service and not the actual result thereof. If the actual result happened to be in a particular way, the law will take care of the consequences".

It is no doubt true that in the order C.No.2847/A1/2000 dated 25-8-2000 issued by the Inspector General of Police, Police Transport Organisation, Hyderabad, condition No.6 reads as hereunder :

"The trainees shall adhere to discipline and good conduct in the training institutions, and show satisfactory progress during the period of training. The trainees shall be discharged from training without assigning any reason or without issuance of any prior notice to them for unsatisfactory conduct or unsatisfactory performance".

However, this is not the ground on which the selection of the respondent herein was cancelled. The order which had been impugned in the O.A. aforesaid reads as hereunder :

Office of the

Inspector General of Police,

A.P., Hyderabad

Dt.21-9-2000

D.O.No.223/2000

Rc.No.2847/A1/2000

ORDER

Sub: PTO, Hyderabad – Selection of STC. PC drivers –

Cancellation of orders – Issued – Reg.

Ref: This office D.O.No.297/2000, dt.25-8-2000.

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In this office D.O. cited, orders were issued in respect of Sri V.Venkateshwarlu S/o.V.Peddanna, Reg.No.215219 as STC P.C. Driver.

The Circle Inspector, Srisailam has informed that the above candidate has been involved in Cr.No.24/2000 U/s.364(A), 323 and 506 IPC of Egalapenta P.S. Mahaboobnagar Dist. And

arrested on 23-8-2000 and sent to Chanchalguda Jail, Hyderabad. He came to adverse remarks and his character and antecedents are not satisfied.

Therefore, the orders issued through the reference cited, are hereby cancelled.

Sd/- IGP, PTO, Hyd."

It is no doubt true that verification of antecedents is a very important step in the process of selection and the appointment of candidates. It appears, the defacto-complainant had addressed a letter to the writ petitioner which had been referred to supra and further acquittal was recorded in S.C.No.44/2001 and the relevant portion of the said Judgment also had been referred above. It is true that the appointing authority may have to satisfy himself about the character and antecedents of the candidate so as to qualify him for such service. There may be several and varied reasons and while evaluating this aspect, the appointing authority is expected to exercise the discretion taking the over all facts and circumstances into consideration. A person who was selected cannot be deprived of being sent to training unless the appointing authority is thoroughly satisfied that the selection is liable to be cancelled on any of one or more of the valid grounds. The appointing authority is expected to apply his mind while exercising this discretion taking into consideration all the facts and circumstances and the appointing authority is not expected to cancel the selection in a mechanical and routine way without adverting to the

relevant facts and the other attending circumstances of the particular given case. The guidelines in this regard cannot be specified, but it is suffice to state that the discretion may have to be exercised properly. On the material placed before the Tribunal, the Tribunal recorded certain reasons. On a careful scrutiny of the order which had been impugned before the Tribunal, the order of cancellation of the selection, this Court is satisfied that the impugned order was made in a routine and mechanical way without adverting to material available on record and the other attending circumstances. Even in the light of the ratio laid down in the decision referred (1) supra, there must be some consideration by the appointing authority in this regard. Hence, viewed from any angle, the order which had been impugned in the O.A. made by the writ petitioner cannot be sustained and the same is hereby quashed and the matter is remitted to the writ petitioner/appointing authority to reconsider the issue in the light of the views expressed by this Court supra. The order impugned in the Writ Petition is accordingly modified to the extent indicated above. The writ petitioner is directed to pass appropriate orders in this regard afresh within a period of one month from the date of receipt of this order.

The Writ Petition is accordingly disposed of. No order as to costs.

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Justice G.Bikshapathy

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Justice P.S.Narayana

Date : -2-2005

L.R. copy to be marked : YES / NO

AM

To

One fair copy to Hon'ble Sri Justice G.Bikshapathy (for his Lordship's kind perusal)

One fair copy to Hon'ble Sri Justice P.S. Narayana (for his Lordship's kind perusal)

1. **The Inspector General of Police, Police Transport Organisation, Petlaburj, Hyderabad.**
2. 2 C.Cs. to Government Pleader for Services-I,

   High Court of Andhra Pradesh,

   High court Buildings,

   Hyderabad.
3. 2 C.Cs. to Government Pleader for Home,

   High Court of Andhra Pradesh,

   High Court Buildings,

   Hyderabad.

4. 8 L.R. copies

5. The Under Secretary, Union of India, Ministry of Law, Justice

   and Company Affairs, New Delhi.

6. The Secretary, A.P. Advocates Association Library, High court

Buildings, Hyderabad.

7. The Registrar, A.P. Administrative Tribunal, Purani Haveli,

Hyderabad.

8. Two C.D. copies